

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RODEY LEE BIGLER,

No. C 09-02498 SBA (PR)

Plaintiff,

V.

**OFFICER DANIEL FORBUS, et al.,**

## Defendants.

**ORDER GRANTING PLAINTIFF'S  
MOTION FOR LEAVE TO FILE AN  
AMENDED COMPLAINT AND  
DENYING HIS REMAINING PENDING  
REQUESTS AS MOOT**

Before the Court is Plaintiff's request for leave to file an amended complaint.

A plaintiff may amend his complaint once as a matter of course at any time before a responsive pleading is served. See Fed. R. Civ. P. 15(a). Where a plaintiff seeks to amend after a responsive pleading has already been served, however, the decision whether to grant leave to amend is committed to the sound discretion of the trial court. Waits v. Weller, 653 F.2d 1288, 1290 (9th Cir. 1981). Federal Rule of Civil Procedure 15(a) is to be applied liberally in favor of amendments and, in general, leave shall be freely given when justice so requires. Janicki Logging Co. v. Mateer, 42 F.3d 561, 566 (9th Cir. 1994).

The Court notes that the defendants in this action have not been served at this time. Plaintiff may as a matter of course amend his complaint because a responsive pleading has not yet been served. See Fed. R. Civ. P. 15(a). Accordingly, Plaintiff's motion for leave to file an amended complaint (docket no. 6) is GRANTED.

The Clerk of the Court is directed to file the document attached to Plaintiff's motion, which is labeled "Complaint Under the Civil Rights Act, Title 42 U.S.C. § 1983, Current as of 06/27/09," and docket the aforementioned document as Plaintiff's "First Amended Complaint." The Court notes that the pages of Plaintiff's First Amended Complaint, which were attached to the motion, appear to have been shuffled and placed out of order. The Clerk is directed to place the pages in the following order: (1) start with pages 21 through 23; (2) attach pages 8 through 16; and (3) attach exhibits beginning with page 4, then page 6, page 5, and page 7. The Clerk is further directed to mark the

1 First Amended Complaint as filed on July 1, 2009, the date it was received by the Court. The Court  
2 will review Plaintiff's First Amended Complaint in a separate written Order.

3 Also before the Court is Plaintiff's request for an order directing prison officials at San  
4 Quentin State Prison (SQSP) to allow him access to the law library and to provide him with "legal  
5 pads, envelopes, copys [sic], pens, postage, etc." (Pl.'s Mot. at 3.) Plaintiff also requests the Court  
6 to order the warden of SQSP to "return or produce this Plaintiff's certificate of funds . . ."<sup>1</sup> (*Id.* at  
7 1.) Since Plaintiff has filed the aforementioned motion, he has been released from SQSP. Clerk's  
8 staff has been informed that Plaintiff was released on parole on January 20, 2010. The record shows  
9 that Plaintiff's new address is: 1010 Emerline Avenue, Building C, Santa Cruz, CA 95060.  
10 Accordingly, Plaintiff's request for an order directing prison officials at SQSP to provide Plaintiff  
11 with the items listed above (docket no. 6) is DENIED as moot.

12 This Order terminates Docket no. 6.

13 IT IS SO ORDERED.

14 DATED: 3/16/10

  
SAUNDRA BROWN ARMSTRONG  
United States District Judge

26 \_\_\_\_\_  
27 <sup>1</sup>  
28

The Court notes that Plaintiff has since been granted in forma pauperis status.

1  
2 UNITED STATES DISTRICT COURT  
3 FOR THE  
4 NORTHERN DISTRICT OF CALIFORNIA

5 RODEY LEE BIGLER,

6 Plaintiff,

7 v.

8 DEANIEL FORBUS et al,

9 Defendant.

Case Number: CV09-02498 SBA

10 **CERTIFICATE OF SERVICE**

11 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District  
12 Court, Northern District of California.

13 That on March 18, 2010, I SERVED a true and correct copy(ies) of the attached, by placing said  
14 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said  
15 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle  
16 located in the Clerk's office.

17 Rodney Lee Bigler  
18 1010 Emerline Avenue  
19 Building C  
20 Santa Cruz, CA 95060

21 Dated: March 18, 2010

22  
23 Richard W. Wiking, Clerk  
24 By: LISA R CLARK, Deputy Clerk